

REMARKS

Claims 2-4, 6, 8-19, 21-23, 25, 27-39, 56-61, 64-77 and 80-92 were presented for examination and were pending in this application. In an Official Action dated August 24, 2004, all pending claims were rejected under 35 U.S.C. 103(a) as unpatentable over various references. In the Office Action, the Examiner indicated that these rejections made by former Examiner Thompson in the Final Office Action dated May 17, 2004 were maintained, despite the Applicants' claim amendments. The responses to these rejections, made by former Examiner Thompson, are maintained as memorialized in Amendment D, filed by Applicants on July 19, 2004.

In Amendment D, Applicants amended independent claim 6 to recite, "automatically providing by the agent entity the suggested price quotation to at least a plurality of other *sellers* for review, wherein the agent entity is independent of the sellers." (emphasis added) Applicants similarly amended claims 25 and 74. The present Office Action fails to make a *prima facie* case that the cited references (Reuhl, Pallakoff, and Skhedy) suggest or disclose the invention as recited in the amended claims. At best, the Office Action conclusorily states that, "Since there is a plurality of goods, there is a plurality of *buyers*. Reuhl thus teaches identified claim modifications." (emphasis added) (Office Action, ¶6) However this statement is interpreted, it is directed toward "buyers" and clearly does not address the limitation of "automatically providing by the agent entity the suggested price quotation to at least a plurality of other *sellers*," as claimed. Applicants have reviewed the other portions cited by Examiner as well as the references and find no disclosure or suggestion of the invention as claimed in independent claims 6, 25, and 74. For this reason alone, claims 6, 25, and 74, and the claims that depend on them are patentable over the cited references.

Applicants also respectfully remind Examiner that, as discussed with Applicants' representative on October 19, 2004, Examiner Thompson and Applicants' representative had previously reached an agreement that elements of claims 6, 25, and 74 in their current form were not disclosed or suggested by the cited references. This agreement was memorialized in Examiner's Summary of Interview dated July 17, 2004, which reflects that "Agreement with respect to the claims was reached" on the claims, and states that Examiner "agreed that an amendment based on the discussed aspects would require reconsideration of the applicant's invention and, probably, a new search."

In Amendment D, Applicants also noted that claim 8 recites, "verifying that a plurality of buyers in the group satisfy a predetermined requirements list that requires a plurality of buyers in the group to have a common employer, wherein the common employer is independent of the seller," and that each of the other independent claims 25, 27, 36, and 56 contains a similar element. Examiner Thompson stated in several Office Actions (e.g. p.13, Office Action dated May 17, 2004) that Pallakoff does not disclose this element and during Applicants' representatives' July 14, 2004 interview, Examiner Thompson conceded that neither does Skhedy suggest or disclose this element. The present Office Action does not address these deficiencies. Although it refers to Skhedy as disclosing "individuals and contracting corporations could group together to buy in bulk," (28:27-28) this disclosure does not specifically suggest or disclose "requires a plurality of buyers in the group to have a common employer" as claimed. While Skhedy discloses "contracting corporations could group together", if anything the disclosure implies that separate corporations could be grouped together, or a contracting corporation and one or more individuals could be grouped together, each with different employers, not that a plurality of buyers in the group have a

common employer as claimed. Further, that something "could" be done in the manner claimed is merely to say that the limitation is within the ordinary skill of one in the art — but that is not a sufficient basis for a rejection under §103. That the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish obviousness. (MPEP 2143.01, *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)). On at least this basis, Applicants submit that claim 8 and related independent and dependent claims are patentable over the cited references.

In sum, Applicants respectfully submit that the pending claims, as presented herein, are patentably distinguishable over the cited references. Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them. In addition, Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
AMIR ALON *et al.*

Date: 10/28/04

By: Colleen

Colleen V. Chien, Attorney of Record
Registration No. 55,062
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Phone: 415-875-2319
Fax: (650) 938-5200
E-Mail: cchien@fenwick.com